

REMARKS

In the Office Action, the Examiner rejected claims 1-11, 13, and 25-33. By this paper, the Applicants added new claim 34, and amended claims 26, 30, and 32 for clarification of certain features to expedite allowance of the present application. These amendments do not add any new matter. Upon entry of these amendments, claims 1-11, 13, and 25-34 remain pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, the Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Objections

In the Office Action, the Examiner objected to Claims 1-11, 13, and 25-33. Although Applicants do not necessarily agree with the Examiner's objection, the Applicants amended the claims as set forth above. In view of this amendment, the Applicants respectfully request the Examiner withdraw the objection to the claims.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 26-33 under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention.

Applicant has amended claim 26 to exclude the Markush language. Applicant intends claim 26 to read as the examiner suggested in her third interpretation of the claim.

Additionally, applicant has amended claim 30 to refer to the appropriate antecedent.

Likewise, applicant has amended claim 32 and added new claim 34 to eliminate the indefiniteness pointed out by the examiner. Amending the claim in this way eliminates the vagueness of the term "hydrocarbon oil" in the original claim.

For at least these reasons among others, the Applicants respectfully request withdrawal of the rejections under Section 112, Second Paragraph.

Claim Rejections under 35 U.S.C. § 102

Legal Precedent and Guidelines

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Lewmar Marine, Inc. v. Bariant, Inc.*, 827 F.2d 744, 747 (Fed. Cir. 1987). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

In the Office Action, the Examiner rejected claims 1-10, 25-26, and 28-33 under 35 U.S.C. § 102(b) as anticipated by DesLauriers (U.S. Patent No. 5,221,534). Applicants respectfully traverse this rejection.

The cited reference is missing the shear thinning quality of the present invention.

Turning to the invention, the present application discloses a shear-thinning gel. The DesLauriers patent teaches using a combination of diblock and triblock or multiblock copolymers. (See Claim 1, DeLauriers). The instant invention discloses the use of only a diblock copolymer. In fact, adding a triblock or multiblock copolymer to the instant composition will cause it to lose its shear-thinning qualities. The omission of a triblock copolymer to produce a shear thinning composition is not taught in the DesLauriers patent.

In the Office Action, the Examiner rejected claims 1-11, 13, and 25-33 under 35 U.S.C. § 102(a) and (e) as anticipated by Allison (Publication No. 2002/0116867). Applicants respectfully traverse this rejection.

Allison teaches the use of at least one derivative of N-acyl amino acid. Applicant has canceled claim 27 eliminate the claim of an n-acyl amino acid.

The Examiner also rejected claims 1-10, 25-26, and 28-33 under 35 U.S.C. § 102(e) as anticipated by Morrison (6,433,068). Applicants respectfully traverse this rejection.

Morrison's '068 patent requires both Kraton 1702, a diblock copolymer, and Kraton 1650, a triblock copolymer. As with the DesLauriers patent, the combination of a diblock and triblock copolymer eliminates the shear-thinning quality of the composition. Morrison's '068 does not disclose the elimination of a triblock copolymer in order to increase the shear-thinning characteristics as disclosed in the instant application.

For at least these reasons among others, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102.

Claim Rejections under Doctrine of Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected claims 1-7, 10, 25-26, and 28-33 under the judicially created doctrine of obviousness-type double patenting over U.S. Patent Application No. 11/343,796 and U.S. Patent No. 66,881,776. Although Applicants do not agree that the present claims are obvious over the '796 application or the '776 patent, the Applicants have included a terminal disclaimer applicable to each of these cited references.

Conclusion

The Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



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